THE HON'BLE SRI JUSTICE K.C.BHANU

W.P.No.10055 of 2007

Date 09-05-2007

Between:

Ganjaila Sankar.

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PETITIONER

AND

The Panchayat Secretary,
Thimmmapur Gram Panchayat and another.

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RESPONDENTS

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THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION No.10055 of 2007

O R D E R:

This writ petition is filed questioning the order of the first respondent No.12/GP/2007 dated ---02-2007 in disqualifying the petitioner to function as Ward Member of having three children.

Heard the learned counsel for the petitioner, learned Government Pleader for Panchayat Raj and Rural Development and the learned Standing Counsel for ZPPs and MPPs (Telangana Region).

Section 22 of A.P.Panchayat Raj Act, 1994, reads as follows:-

> ***Authority to decide questions of disqualification of members****:- (1) Where an allegation is made that any person who is elected as a member of a gram panchayat is not qualified or has become disqualified under Section 17, Section 18, Section 19 or Section 20 by any voter or authority to the executive authority in writing and the executive authority has given intimation of such allegation to the member through the District Panchayat Officer and such member disputes the correctness of the allegation so made, or where any member himself entertains any doubt whether, or not he has become disqualified under any of those sections, such member or any other member may, and the executive authority, at the direction of the grampanchayat or the Commissioner shall, within a period of two months from the date on which such intimation is given or doubt is entertained, as the case may be, apply to the District Court) having jurisdiction over the area in which office of the gram panchayat is situated for decision.*

(2) Pending such decision, the member shall be entitled to act as if he is qualified or were not disqualified.

(3) Where a person ceases to be the Sarpanch or Upa-Sarpanch of a gram panchayat as a consequence of his ceasing to be a number of the gram panchayat under clause (b) of Section 20 and is restored later to his membership of the gram panchayat under sub-section (2) of Section 21, he shall, with effect from the date of such restoration, be deemed to have been restored also to the office of Sarpanch or Upa-Sarpanch, as the case may be.

A perusal of the above provision makes it clear that the District Judge is the competent authority to pass an order with regard to the disqualification of a Ward Member and that the Panchayat Secretary, Gram Panchayat is not competent to pass an order disqualifying the petitioner. It is not in dispute that the Panchayat Secretary, Gram Panchayat has no jurisdiction to disqualify a Ward Member, but, at best, he can only intimate the petitioner and that the District Court having jurisdiction over the area is competent where the office of the gram panchayat is situated. Therefore, the impugned order to the extent of disqualifying the petitioner to function as Ward Member of Timmapur of Jannaram Mandal is set aside. However, the said proceedings can only be treated as intimation to the petitioner.

Accordingly, the Writ Petition is allowed. There shall be no order as to costs.

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09-05-2007

Prv/Usd